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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 523]

भोपाल, शुक्रवार, दिनांक 20 दिसम्बर 2019—अग्रहायण 29, शक 1941

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 20 दिसम्बर 2019

क्र. 21857-335-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) विधेयक, 2019 (क्रमांक 39 सन् 2019) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

MADHYA PRADESH BILL
No. 39 of 2019

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MADHAY PRADESH BILL
No. 39 of 2019

THE MADHYA PRADESH GOODS AND SERVICES TAX (SECOND AMENDMENT)
BILL, 2019

A Bill further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the seventieth year of the Republic of India as follows :—

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Second Amendment) Act, 2019. Short title and commencement.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the State Government may, by notification in the official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In Section 2 of the Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) (hereinafter referred as the principal Act), in clause (4), after the words “the Appellate Authority for Advance Ruling,” the words “the National Appellate Authority for Advance Ruling,” shall be inserted. Amendment of Section 2.

3. In Section 10 of the principal Act,—

Amendment of Section 10.

(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:—

“**Explanation.**—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in the State.”;

(b) in sub-section (2),—

(i) in clause (d), the word “and” occurring at the end shall be omitted;

(ii) in clause (e), for the word “Council:”, the words “Council; and” shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:—

“(f) he is neither a casual taxable person nor a non-resident taxable person:”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of Section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of Section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent of the turnover in the State, if he is not—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under Section 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961(43 of 1961), the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.";

- (d) in sub-section (3), after the words, bracket and figure "under sub-section (1)" at both the places where they occur, the words, bracket, figure and letter "or sub-section (2A), as the case may be," shall be inserted;
- (e) in sub-section (4), after the words, bracket and figure "of sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (2A)" shall be inserted;
- (f) in sub-section (5), after the words, bracket and figure "under sub-section (1)", the words, bracket, figure and letter "or sub-section (2A), as the case may be," shall be inserted;
- (g) after sub-section (5), the following Explanations shall be inserted, namely:—

“Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression “turnover in the State” shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

**Amendment of
Section 22.**

4. In Section 22 of the principal Act, in sub-section (1), in the second proviso, for full stop, colon shall be substituted and thereafter the following proviso and explanation shall be inserted, namely:—

“Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

5. In Section 25 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

Amendment of Section 25.

"(6A) "Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or such part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016).".

6. After Section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new Section 31A.

"31A. Facility of Digital Payment to recipient.—The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.".

**Amendment of
Section 39.****7. In Section 39 of the principal Act,—**

- (a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish a return electronically of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of Section 10, shall, for each financial year or part thereof, furnish a return electronically of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”;

- (b) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”.

**Amendment of
Section 44.****8. In section 44 of the principal Act, in sub-section (1), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—**

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central Tax shall be deemed to be notified by the Commissioner.”.

**Amendment of
Section 49.****9. In Section 49 of the principal Act, after sub-section (9), the following sub-sections shall be inserted, namely:—**

“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

- (11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1)."

10. In Section 50 of the principal Act, in sub-section (1), for full stop, colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

Amendment of Section 50.

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger."

11. In Section 52 of the principal Act,—

Amendment of Section 52.

- (i) in sub-section (4), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.";

- (ii) in sub-section (5), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner."

12. After Section 53 of the principal Act, the following section shall be inserted in Chapter X, namely:—

Insertion of new Section 53A.

"53A. **Transfer of certain amounts.**—Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger for central tax integrated tax or cess, the Government shall, transfer to the central tax account or integrated tax account or cess account an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed."

13. In Section 54 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment of Section 54.

"(8A) Where the Central Government has disbursed the refund of the State tax, the Government shall transfer the amount equal to the amount so refunded, to the Central Government."

14. In Section 95 of the principal Act,—

Amendment of Section 95.

- (i) in clause (a),—

(a) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of section 100", the words, figures and letter "or of section 101C of the Central Goods and Services Tax Act, 2017 (12 of 2017)" shall be inserted;

(ii) in clause (e), for full stop, semicolon shall be substituted and thereafter the following clause shall be inserted, namely:—

"(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A."

Insertion of new
Sections 101A
and 101B.

15. After Section 101 of the principal Act, the following sections shall be inserted, namely:—

"101A. **Constitution of National Appellate Authority for Advance Ruling.**—Subject to the provisions of this Chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.

101B. **Appeal to National Appellate Authority.**—(1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting advance rulings are given by the Appellate Authority constituted under section 99 and the Appellate Authority of any other State or States or of a Union territory or Union territories or both under sub-section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such advance ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the State in which such advance ruling have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.— For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed."

Amendment of
Section 102.

16. In Section 102 of the principal Act, in the opening portion,—

(a) after the words "Appellate Authority", at both the places where they occur, the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "or section 101", the words, figures and letter, "or section 101C of Central Goods and Services Act, 2017 (12 of 2017) , respectively," shall be inserted;

- (c) for the words "or the appellant", the words "appellant, the Authority or the Appellate Authority" shall be substituted.

17. In Section 103 of the principal Act,—

**Amendment of
Section 103.**

- (i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

- (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of Section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961);
- (b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961).";

- (ii) in sub-section (2), after the words, bracket and figure "in sub-section (1)", the words, bracket, figure and letter "and sub-section (1A)" shall be inserted.

18. In Section 104 of the principal Act, in sub-section (1),—

**Amendment of
Section 104.**

- (a) after the words "Authority or the Appellate Authority", the words "or the National Appellate Authority" shall be inserted;
- (b) after the words and figures "of section 101", the words, figures and letter "or under section 101C of Central Goods and Services Act, 2017 (12 of 2017) " shall be inserted.

19. In Section 105 of the principal Act,—

**Amendment of
Section 105.**

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Powers of Authority, Appellate Authority and National Appellate Authority.";

- (b) in sub-section (1), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;
- (c) in sub-section (2), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

20. In Section 106 of the principal Act,—

**Amendment of
Section 106**

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure of Authority, Appellate Authority and National Appellate Authority.";

- (b) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

21. In Section 171 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

**Amendment of
Section 171.**

- “(3A) Where the Authority referred to in sub-section (2), after holding examination as

required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.

Amendment of Notification No. F A-3-35-2017-1-V(148) dated the 14th November, 2017 issued under sub-section(1) of section 11 of the Madhya Pradesh Goods and Services Tax Act, 2017, retrospectively.

22. (1) In the notification of the Madhya Pradesh Government Commercial Tax Department No. F A-3-35-2017-1-V(148) dated the 14th November, 2017", issued on the recommendations of the Council, under sub-section (1) of section 11 of the Madhya Pradesh Goods and Services Tax Act, 2017, in the Schedule, after S. No. 103 and the entries relating thereto, the following S. No. and the entries shall be inserted and shall be deemed to have been inserted retrospectively with effect from the 1st day of July, 2017, namely:—

(1)	(2)	(3)
"103A	26	Uranium Ore Concentrate".

(2) For the purposes of sub-section (1), the Government shall have and shall be deemed to have the power to amend the notification referred to in sub-section (1) with retrospective effect as if the Government had the power to amend the said notification under sub-section (1) of section 11 of the said Act, retrospectively, at all material times.

(3) No refund shall be made of all such tax which has been collected, but which would not have been so collected, if the notification referred to in sub-section (1) had been in force at all material times.

STATEMENT OF OBJECTS AND REASONS

The Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) was enacted with a view to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the State Government.

2. The Act has brought great ease in working environment for the taxpayers. However, the new tax regime had faced certain difficulties. One of the major inconveniences caused to the taxpayers, especially small and medium enterprises, was the process of filing return, maintenance of books of accounts and mode of payment of tax under the Goods and Services Tax laws. In this regard, the proposed new return filing system, envisages quarterly filing of return and tax payment for small taxpayers along with minimum paperwork. In order to implement the new return filing system, and also to overcome the above difficulties and in order to remove the conflict in orders passed by Advance Ruling Authority of different States, it is proposed to amend the Madhya Pradesh Goods and Services Tax Act, 2017. In addition to above issues some other changes are required for proper functioning of the Act and for ease of doing business.

3. The proposed Madhya Pradesh Goods and Services Tax (Second Amendment) Bill, 2019, inter alia, provides for the following, namely:—

- (i) to amend section 2 of the Act to define adjudicating authority in order to create the National Appellate Authority required;
- (ii) to amend section 10 of the Act to add an explanation and a restriction for opting composition for casual tax person and a non-resident taxable person and also insert a new sub-section (2A) to provide an option for composition to the taxpayers dealing with services having turnover up to 50 lacs;

- (iii) to amend section 22 of the Act so as to enhance the limit of liability to take registration from 20 lacs to 40 lacs;
- (iv) to amend section 25 of the Act to add new sub-sections (6A), (6B), (6C) and (6D) for compulsion of verification based on Aadhar number or alternate or viable means of identification for taking registration;
- (v) to insert a new section 31A for increasing the means of payment by electronic mode;
- (vi) to amend section 39 for specifying new return system and to specify time of payment for different kinds of return filing options adopted by taxpayers;
- (vii) to amend section 44 of the Act to empower the Commissioner to extend the time limit for furnishing the annual return;
- (viii) to amend section 49 to facilitate taxpayers for transferring any amount from any electronic cash ledger to any other electronic cash ledger;
- (ix) to amend section 50 to clarify the amount on which interest shall be levied;
- (x) to amend section 52 of the Act to empower the Commissioner to extend the time limit for furnishing the statement and annual statement by TDS deductor;
- (xi) to insert section 53A of the Act to clarify the procedure of fund transfer from cash ledger in accordance to the proposed amendment in section 49;
- (xii) to amend section 54 by inserting new sub-section 8A to clarify disbursement of refund of State Tax by Central Government and fund transfer accordingly;
- (xiii) to amend section 95 to define the work of the National Appellate Authority for Advance Ruling;
- (xiv) to insert new section 101A for constitution of National Appellate Authority for Advance Ruling and to insert new section 101B for clarifying the procedure to appeal to National Appellate Authority;
- (xv) to amend section 102 for empowering the National Appellate Authority for rectification of orders passed by National Appellate Authority;
- (xvi) to amend section 103 for defining applicability of advance ruling;
- (xvii) to amend section 104 to clarify ruling passed by National Appellate Authority to be void in certain circumstances as the applicant or the appellant, obtained it by fraud or suppression of material facts or misrepresentation of facts;
- (xviii) to amend section 105 to define powers of National Appellate Authority;
- (xix) to amend section 106 to empower National Appellate Authority to regulate its own procedure;
- (xx) to amend section 171 empowering Anti-Profiteering Authority to levy penalty equivalent to ten percent of the amount so profited;
- (xxi) to amend notification No. FA-3-35-2017-1-V(148) dated 14th November 2017, issued under sub-section(1) of section (11) to give effect retrospectively.

4. Hence this Bill.

BHOPAL:

Dated the 16th December 2019

BRAJENDRA SINGH RATHORE

Member-in-charge.